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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Partial Delegation of Authority to the Under Secretary of Commerce for Oceans and Atmosphere and Administrator of the National Oceanic and Atmospheric Administration to Implement Section 113 of the Consolidated Appropriations Act, 2017, Regarding the Research, Exploration and Salvage of RMS *Titanic*.

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of delegation of authority.

SUMMARY: NOAA is publishing this notice to inform the public that, on August 29, 2018, the Secretary of Commerce delegated to the NOAA Administrator partial authority under Section 113 of the Consolidated Appropriations Act, 2017 (“Section 113”), to authorize any research, exploration, salvage, or other activity that would physically alter or disturb the wreck or wreck site of the RMS *Titanic* per the provisions of the Agreement Concerning the Shipwrecked Vessel RMS *Titanic* (hereinafter the “International Agreement”). The Secretary also authorized the NOAA Administrator to take appropriate actions to carry out this section of the Act consistent with the International Agreement. This notice also provides the public with a point of contact for any person seeking a Section 113 authorization from NOAA.

DATES: On August 29, 2018, the Secretary of Commerce delegated to the NOAA Administrator partial authority regarding the issuance of authorizations pursuant to Section 113.

ADDRESSES: Requests for, or questions pertaining to, an authorization pursuant to Section 113 should be sent to the NOAA Administrator, 1305 East-West Highway, SSMC IV, Suite 6111, Silver Spring, MD 20910; Attention – Section 113 Authorization. Requests or questions may also be sent via email to Titanic.Authorizations@noaa.gov.

FOR FURTHER INFORMATION CONTACT: David Alberg, Superintendent of the Monitor National Marine Sanctuary, at (757) 791-7326, David.Alberg@noaa.gov.

SUPPLEMENTARY INFORMATION: Section 113 prohibits any person from conducting any research, exploration, salvage, or other activity that would physically alter or disturb the wreck or wreck site of the RMS *Titanic* unless authorized by the Secretary of Commerce per the provisions of the International Agreement. As directed by Congress in Section 6 of the 1986 RMS *Titanic* Maritime Memorial Act (16 U.S.C. 450rr *et seq.*), the United States negotiated the International Agreement with the United Kingdom, France, and Canada. Section 5(a) of the 1986 Act directed NOAA to enter into consultations with the United Kingdom, France, Canada and others to encourage international protection of the RMS *Titanic* and to develop international guidelines for research on, exploration of, and, if appropriate, salvage of RMS *Titanic*.

The NOAA Guidelines for Research, Exploration and Salvage of RMS *Titanic* (hereinafter the “NOAA Guidelines”) became final on April 12, 2001 (66 FR 18905), after public notice and comment (65 FR 35326), and are consistent with the Rules Concerning Activities Aimed at the RMS *Titanic* and/or its Artifacts, which are annexed to the International Agreement (hereinafter the “Annex Rules”). Among other things, the NOAA Guidelines and the Annex Rules address project design, funding, duration, objectives, methodology and techniques, professional qualifications, preliminary work, documentation, artifact conservation, safety, reporting, curation of project collection(s), and dissemination.

The NOAA Guidelines and the Annex Rules are based on widely accepted international and domestic professional archaeological standards, including the International Council of Monuments and Sites (ICOMOS), International Charter on the Protection and Management of Underwater Cultural Heritage, the rules annexed to the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Protection of the Underwater Cultural Heritage, the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation, and the National Park Service’s Abandoned Shipwreck Act Guidelines.

Issuance of Section 113 Authorizations

Any person subject to U.S. jurisdiction proposing to conduct any research, exploration, salvage, or other activity at the wreck or wreck site of RMS *Titanic* will need to demonstrate to the NOAA Administrator that the proposed project will comply with Section 113, which incorporates by reference the International Agreement. This information will enable the NOAA Administrator to determine whether the activity may physically alter or disturb the wreck or wreck site of RMS *Titanic* such that an authorization is required and, if so, whether the NOAA

Administrator can issue an authorization. To facilitate the NOAA Administrator's review, NOAA recommends that any person proposing to conduct any research, exploration, salvage, or other activity at the wreck or wreck site of RMS *Titanic* submit to NOAA, at least 120 calendar days prior to the proposed project date, information sufficient to demonstrate that the proposed project will comply with the Annex Rules of the International Agreement and to obtain any necessary authorization, if applicable. NOAA also encourages requestors to review the NOAA Guidelines as well as the International Maritime Organization Circular MEPC.1/Circ.779 (Pollution Prevention Measures in the Area Surrounding the Wreckage of RMS *Titanic*).

Section 113 Authority Reserved by the Secretary of Commerce

The Secretary of Commerce reserved authority under Section 113 to make all decisions arising under Article 5 of the International Agreement when a Party to the Agreement opposes an authorization under consideration by the United States. Article 5 of the International Agreement provides, among other things, that each Party to the Agreement shall provide copies of and its preliminary views on requests for authorizations to the other Parties for comment. The Party considering the authorization must provide a 90-day comment period to the other Parties following transmission of the request for authorization to the other Parties.

Status of the International Agreement

The International Agreement will enter into force when at least two countries ratify it. The United Kingdom ratified the International Agreement on November 6, 2003. The United States signed the Agreement on June 18, 2004, subject to acceptance following the enactment of

implementing legislation. As of the date of this notice, the Agreement has not yet entered into force.

Coordinating with the United States District Court for the Eastern District of Virginia

The United States District Court for the Eastern District of Virginia (“the Court”) has constructive *in rem* jurisdiction over RMS *Titanic* and has granted exclusive salvage rights to RMS Titanic, Incorporated (“RMST”). NOAA intends to notify the Court of any project that may require a Section 113 authorization and will encourage any person requesting authorization to coordinate directly with the Court and any salvor-in-possession of RMS *Titanic*. Any person proposing a project involving the salvage of *Titanic* wreck or wreck site, as determined by the Court, must also obtain approval by the Court in addition to any authorization required by Section 113. NOAA also intends to provide the Court with a copy of any authorization the NOAA Administrator issues pursuant to Section 113.

Privileged or Confidential Information

NOAA handles requests for agency records under the Freedom of Information Act (FOIA) (5 U.S.C. 552 *et seq.*) and the Privacy Act (5 U.S.C. 552a *et seq.*) in a manner consistent with these laws and the Department of Commerce regulations on the Disclosure of Government Information. 15 CFR part 4. FOIA Exemption (b)(4) applies to trade secrets and commercial or financial information that is privileged or confidential. If any person requesting a Section 113 authorization submits such information to NOAA, he or she should clearly label it “Contains Confidential Information,” consider submitting such information as a separate attachment, and request that NOAA treat it as confidential. NOAA will not disclose such information if it

qualifies for exemption from disclosure under FOIA. *See* 15 CFR 4.9. NOAA will also seek to protect personally identifiable information affecting an individual's privacy consistent with FOIA Exemption (b)(6).

Dated: July 5, 2019

Neil A. Jacobs,

Assistant Secretary of Commerce for Environmental Observation and Prediction

Performing the Duties of Under Secretary of Commerce for Oceans and Atmosphere

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